

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7681

BILL NUMBER: HB 1942

DATE PREPARED: Apr 28, 2001

BILL AMENDED: Apr 5, 2001

SUBJECT: Child Seduction and Sexual Misconduct with a Minor.

FISCAL ANALYST: Mark Goodpaster

PHONE NUMBER: 232-9852

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It defines sexual misconduct with a minor as a Class A felony as a crime of violence.

(B) It provides that a person employed in a state agency who works with or around children shall be dismissed if the person has a conviction for sexual misconduct with a minor as a Class A or B felony.

(C) It includes sexual misconduct with a minor as a Class A or B felony as a crime that may be included in a limited criminal history.

(D) It expands the definition of child care worker to include a teacher for purposes of the sexual misconduct with a minor statute.

(E) It includes attempted murder and sexual misconduct with a minor as a Class A felony in the "crimes of violence" statute.

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) Provision A applies to persons who are sentenced for more than one crime. If the crimes for which offenders are sentenced are not "crimes of violence" as specified by IC 35-50-1-2, then the total of the consecutive terms of imprisonment cannot exceed the presumptive sentence for a felony that is one class higher. By designating sexual misconduct with a minor as a Class A felony as a crime of violence, offenders who are sentenced for this crime and another crime would be incarcerated for a longer period of time than under current law. The effect on the prison population is likely to be limited. Only two offenders were incarcerated in DOC facilities for this crime as of January 2, 2001. Prior to 2001, DOC reported that no offenders have been committed to its facilities for this crime in the past five years.

The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is

approximately \$1,825 annually, or \$5 daily, per prisoner.

Provisions B and C: DOC reported that no offenders have been committed to its facilities for Class A sexual misconduct with a minor in the past five years. The number of offenders who have been committed to DOC for Class B felonies related to sexual misconduct with a minor are shown for the fiscal years between 1996 and 2000.

<u>Felony</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>
B	0	6	24	38	51

Of the offenders who were incarcerated in DOC facilities as of January 2, 2001, two persons were incarcerated for a Class A felony while 137 offenders were incarcerated as Class B felons.

Offenders who work either as teachers, as employees in state institutions, and as state agencies employees who work with children is not known.

Provision E: Under current law, neither attempted murder nor sexual misconduct as a Class A felony are considered a crime of violence when considering sentencing options for offenders who have committed a series of offenses that are closely related in time, place, and circumstance. For crimes that are not crimes of violence, the maximum sentence that a criminal defendant could receive would be the presumptive sentence for a felony which is one class higher than the most serious of the felonies for which the person has been convicted. The table below shows the minimum, presumptive, and maximum sentences for murder and Class A felonies.

Felony Class	Minimum	Presumptive	Maximum
Murder	45 years	55 years	65 years
A	20 years	30 years	50 years

As an illustration of current law, if a person is convicted and sentenced for two occurrences of either attempted murder or sexual misconduct as a Class A felony in a single episode, the longest sentence that could be ordered would be 55 years under current law. This is because under current statute both offenses are Class A felonies but not crimes of violence. Consequently, the next higher felony is murder for which the presumptive sentence is 55 years.

This bill could increase the amount of time that a defendant could receive for a sentence that involves more than one occurrence of attempted murder or sexual misconduct with a minor as a Class A felony in a single episode of criminal conduct. With this bill, the court may order terms of imprisonment to be served consecutively if the offense is a crime of violence. Because attempted murder and sexual misconduct with a minor can both be Class A felonies and because the presumptive sentence is 30 years and the maximum sentence is 50 years, the maximum sentence for two occurrences of either offense in a single episode could be between 60 and 100 years if a court orders the defendant to serve these sentences consecutively.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction, State Institutions, State Agencies in which employees work with or around children.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Department of Correction; IC 35-41-5-1.